

VI. GOVERNMENTAL CONSTRAINTS

Background

The purpose of this chapter is to fulfill the State mandate "to re-examine local ordinances and policies to determine whether, under current conditions, they are accomplishing their intended purpose or, in practice, constitute a barrier to the maintenance, improvement or development of housing for all income levels."

The State guidelines further note that: "This examination may reveal that in practice the ordinance/policy may require excessive performance standards and/or restrictions, and therefore operates as a governmental constraint. The analysis may also show that certain policies have a disproportionate or negative impact on the development of particular housing types (e.g, multiple-family) or on housing developed for low- or moderate-income households."¹¹

As a part of the analysis, this chapter also describes the City's residential zone districts and development standards and its development review processes.

Analysis

The City's review of potential constraints highlighted only a few areas of concern. With these exceptions, the City does not impose constraints that may be hurdles to developing low- or moderate-income housing.

The review is organized into nine categories.

- Residential zoning
- Land use controls
- Shelters and transitional housing for the homeless
- Housing for disabled persons
- Processing and permit procedures
- Fees and exactions
- On- and off-site improvement requirements
- Codes and Enforcement
- Others

Residential Zoning

Do the land use designations allow for a range of housing types?

The City's General Plan, zoning classifications and Precise Plans allow for a range of densities from about 4 units per acre to about 100 units per acre. As shown in Table VI-1, which begins on page 42, the zoning classifications include both standard zone districts and Precise Plans.

¹¹ "Housing Element Questions and Answers," State Department of Housing and Community Development, September 2000.

Precise Plans are more flexible than traditional zoning. They set broad goals and objectives and establish detailed development and design standards tailored to specific locations and their surroundings. The Precise Plans have the same legal status as traditional zoning in establishing uses and development standards.

Most of the remaining developable residential land is zoned for multiple-family housing (see Table VIII-4 on page 68). Within that category Mountain View allows apartments, condominiums, townhouses and small-lot single-family housing. The only restriction is that in some Precise Plans, small-lot single-family is not allowed because of noise or other environmental considerations, and in some areas, it is discouraged because it does not blend with the surrounding higher density development. Efficiency studios can be built in some Precise Plan areas and in the Commercial/Residential Arterial (CRA) zone district. All residential development in the CRA zone requires a conditional use permit because of potential for conflicts with existing commercial uses, for example auto repair.

In addition to the uses listed in the table, the following uses are allowed as a matter of right in all residential zone districts: factory built housing and mobile homes on a permanent foundation, residential care homes with six or fewer clients, and rooming and boarding houses with no more than two persons. Residential care homes with six or more clients and rooming and boarding houses with more than two persons are allowed with a conditional use permit in all residential zone districts. The use permit requirement allows the City to assess whether there will be parking or other problems associated with a larger-than-normal household in a residential area.

Specialized housing types, such as senior housing and co-op housing, are allowed in the multiple-family zones with a conditional use permit and in some Precise Plans.

Although the zoning ordinance allows companion units to be manufactured (factory-built) housing, it does not say so explicitly. Action 9.c proposes to clarify this provision in the zoning ordinance.

**Table VI-1
Residential Land Use Classifications**

GENERAL PLAN LAND USE CATEGORY	ZONE DISTRICTS AND MAXIMUM DENSITIES	ALLOWED RESIDENTIAL USES	PRECISE PLANS WITH SIMILAR DENSITIES AND USES
<p style="text-align: center;">Low Density Residential (1-6 units per acre.)</p>	<p style="text-align: center;">R1 (1-6 units per acre.)</p>	<ul style="list-style-type: none"> • Detached single-family houses • Companion units on parcels 35 percent larger than the minimum for the zone district. (CUP required) 	<p>El Camino Medical Park (part): 6 units per acre 1101 Grant Road (part): 5 units per acre</p>
<p style="text-align: center;">Medium-Low Density Residential (7-12 units per acre)</p>	<p style="text-align: center;">R2 (7-12 units per acre)</p> <p style="text-align: center;">RMH (8 mobile homes per acre)</p>	<ul style="list-style-type: none"> • Duplexes • Small-lot single-family (maximum density 10 units per acre) (PUD permit required) • Townhouses (PUD permit required) • Mobile homes 	<p>Clark-Marich (part): 10.5 units per acre Evelyn Avenue Corridor (part): 11 units per acre between Villa and Dana Grant-Martens: 7 units per acre Grant-Phyllis Triangle: 12 units/acre</p>

GENERAL PLAN LAND USE CATEGORY	ZONE DISTRICTS AND MAXIMUM DENSITIES	ALLOWED RESIDENTIAL USES	PRECISE PLANS WITH SIMILAR DENSITIES AND USES
Medium Density Residential (13-25 units per acre)	R3-3 (13 units per acre) R3-2.5 (15 units per acre) R3-2.2 (17 units per acre) R3-2 (18 units per acre) R3-1.5 (23 units per acre) Note: Density is for a one-acre parcel. Density increases with size of parcel.	<ul style="list-style-type: none"> • Small-lot single-family (maximum density 10 units per acre) (PUD permit required) • Townhouses (maximum density 14 units per acre) (PUD permit required) • Apartments • Condominiums 	2100 California: 14.4 units per acre California-Ortega (part): 14.4 units per acre Clark-Marich (part): 15.5 units per acre on Marich Evelyn Avenue Corridor (part): 15-25 units per acre between Evelyn and Villa Mora-Ortega (part): 14.4 units per acre 394 Ortega: 14.4 units per acre (plus density credit for Hetch Hetchy) San Ramon (part): 14 units per acre 460 Shoreline: Senior and family housing at 22 units per acre
Medium-High Density Residential (26-35 units per acre)	R3-1.25 (27 units per acre) R3-1 (33 units per acre) Note: Density is for a one-acre parcel. Density increases with size of parcel.	<ul style="list-style-type: none"> • Small-lot single-family (maximum density 10 units per acre) (PUD permit required) • Townhouses (maximum density 14 units per acre) (PUD permit required) • Apartments • Condominiums 	Downtown Areas B and J: 15 to 30 units per acre. Includes sections of Franklin, Hope and upper floors on sections of Castro Evandale: 20-38 units per acre San Antonio Station (part): 30 units per acre Villa-Mariposa: 30 units per acre Whisman Station Precise Plan: 7 to 25 units per acre

GENERAL PLAN LAND USE CATEGORY	ZONE DISTRICTS AND MAXIMUM DENSITIES	ALLOWED RESIDENTIAL USES	PRECISE PLANS WITH SIMILAR DENSITIES AND USES
<p>High Density Residential (36-80 units per acre)</p> <p>Linear Commercial/Residential</p>	<p>R3D (51 units per acre)</p> <p>Note: Density is for a one-acre parcel. Density increases with size of parcel.</p> <p>CRA (43 units per acre)</p>	<ul style="list-style-type: none"> • Small-lot single-family (maximum density 10 units per acre) (PUD permit required) • Townhouses (maximum density 14 units per acre) (PUD permit required) • Apartments • Condominiums • Apartments, condominiums and townhouses, alone or in a mixed commercial and residential development (CUP required) • Efficiency studios (CUP required) 	<p>Americana: 35 units per acre California-Ortega (part): Senior housing at 50 units per acre. Clark-Marich (part): 43 units per acre in mixed use area Downtown Area F: 40 units per acre (sections of View and Hope) Downtown Areas A, C, E and G: 50 units per acre (Bryant Street, sections of Hope and View, upper floors on sections of Castro) Downtown Area D: 60 units per acre ECR-Castro Gateway: 43 units per acre in mixed use area 1101 Grant Road (part): Senior housing at 50 units per acre Mora Ortega (part): Senior housing at 50 units per acre Ortega-El Camino Real: 36-100 units per acre depending on acreage San Antonio Station (part): 21-40 units per acre San Ramon: Senior housing at 50 units per acre</p>

Are there enough land use and density categories and do they match well with the local needs?

As a part of the Housing Element update process, the City has identified enough housing sites to meet the local need for housing as defined by ABAG in its “fair share allocation.” Currently, the City estimates that since 1999, the start of the current Housing Element time frame, 1,243 housing units have been built, are under construction, or are in the approval process. It is also estimated that another 1,254 housing units can be built on land currently zoned for residential (assuming buildout at 80 percent of maximum densities, which is somewhat higher than historical development averages of 75 percent). Of those, a small percentage of the units are on land zoned R1 and the rest are on land zoned for multiple-family at various densities. Most of the multiple-family zoned land (and most of the land being considered for rezoning to residential) could potentially accommodate housing for very low and low-income residents—the area of greatest need (see Table VIII-4, page 68).

Do zoning and subdivision requirements match the best possible use of particular sites or areas?

Yes. As a part of the Residential Densities Study conducted from Fall 1999 to Spring 2000, the City reviewed the multiple-family zoned areas to assess whether zoning changes are needed to ensure that new infill housing was compatible with the existing neighborhood. Only one small area (18 parcels in the 6000 to 8000 square-foot range) was changed. A review of the Downtown Precise Plan adopted by the Council in Spring 2000 resulted in some areas being shifted from a predominately retail commercial land use to predominately high density residential use.

Land Use Controls

Are open space requirements compatible with standards used in other communities?

Open space requirements are:

R1 and R2: 50 percent of the required front yard shall be permanently landscaped. (Other standards like setbacks and floor area ratio ensure adequate open space.)

R3: Open area requirement for apartments and condominiums is 55 percent, which includes a minimum of 40 square feet of private open space (yards, decks, balconies) per unit.

R3D: Open area requirement is 35 percent.

The open area requirement for townhouses and small-lot single-family in the R3 and R3D zones is 45 percent of the site. In addition, each small-lot single-family unit must have a minimum 15-foot by 15-foot private yard—which counts toward 45 percent.

A point-by-point comparison of other cities' open space requirements is difficult since the form of the regulations varies considerably. For example, both Sunnyvale and Palo Alto state their open space requirements for multiple-family development in terms of square feet per unit as compared to Mountain View's percentage-of-lot-area requirement. Another way of making a

comparison is to look at building coverage and paving coverage maximums. Open space standards can be estimated by subtracting these coverages from the lot area. Palo Alto and Sunnyvale have a maximum building coverage of 40 percent while Mountain View's is 35 percent. Unlike Mountain View, Palo Alto and Sunnyvale do not have maximum paving coverages, but their parking requirements are similar so maximum paving would be similar. From this information, the open space standards in Palo Alto and Sunnyvale are estimated to be equivalent to about 50 percent. Mountain View's requirement is 55 percent, but balconies and other above-grade recreational open area can be counted as open space, which makes the three cities very similar in their open space requirements.

Do the parking requirements accurately reflect the parking need? For example, the demand for parking in multifamily housing may be lower due to income, or proximity to transit, shopping or work.

Mountain View's parking requirements vary by zone district and use. The requirement for standard single-family homes, small-lot single-family homes and townhouses is two spaces per unit. In addition, there are guest parking requirements for townhouses and small-lot single-family houses since they typically have very little public street frontage available for guest parking. The requirement for companion units is one space per bedroom.

The parking requirement for apartments and condominiums in multiple-family zones is 1.5 spaces per studio unit (except for efficiency studios) and 2 spaces per one-bedroom and larger unit plus 0.3 space per unit for guest parking.

Mountain View reviewed and revised its multiple-family parking requirements in 1996. As a part of its effort, the City hired a consultant to survey multiple-family development to assess whether the standards should be changed. The six projects reviewed representing a total of 1,030 units cover a cross-section of rental and condominium projects of various sizes and locations. The study did not encompass income, transit, shopping or work factors. The average parking ratio in the study was 1.42 parking space per unit. Usage was between 72 and 88 percent of the total available off-street parking supply. Traffic engineers generally consider a parking area to be fully utilized when 85 – 90 percent of the spaces are occupied.

After review by the Planning Commission and City Council, including public testimony about the need for more parking, it was determined that the parking requirement should not be reduced. Fluctuations in the economy, populations and similar factors can influence survey results, so the report recommended that the City keep the more conservative standards to ensure there is adequate parking.

There are exceptions to these standards. The parking standard for efficiency studios is 1 space per unit, but the requirement can be reduced to 0.4 space per unit through a conditional use permit process if the project is near transit, in the downtown, and/or within walking distance of jobs and services. One of the conditions for a use permit is a parking management plan, which limits the number of tenants with cars. The site for the planned efficiency studios development is near transit and within walking distance of jobs and services. A survey of efficiency studio

projects in other cities indicates there is a demand for 0.40 to 0.55 spaces per unit. This survey was a guide for the Mountain View project.

Another exception is for senior congregate care housing where the requirement is 1.15 space per unit. This can also be reduced by a parking study of the proposed project that demonstrates a lower ratio is appropriate.

The City has also approved shared parking on a case-by-case basis. For a 211-unit apartment project currently under construction on El Camino Real (Skyview or Avalon Bay), there is one space for each residential unit plus 200 parking spaces that are shared with an adjacent office project. For another mixed-use (residential/commercial) project on El Camino Real, the guest parking (0.3 space per unit) is shared with the commercial development. At the Crossings, which is next to a Caltrain station, there is one space for each of the 128 condominium units plus 200 spaces that are shared with Caltrain commuters according to a time-of-day agreement.

Since the cost of providing parking negatively impacts the cost of housing, the Housing Element contains an Action 17.e calling for a zoning ordinance amendment that would consider allowing parking reductions for senior and affordable housing on a project-by-project basis. In considering such a reduction, there should be a special study demonstrating the nexus between the need and the reduction.

Do parking standards for mixed-use impose an impediment or incentive for housing?

As noted above, the City has approved shared parking for recent mixed-use projects. The Housing Element contains an Action encouraging that this policy be continued on a project-by-project basis. Mixed use projects are usually of such a scale that it is economically feasible to place parking underground.

What other development restrictions apply?

All of the residential zone districts and most Precise Plans have Floor Area Ratio (FAR) maximums and height limits. In the R1 zone, the FAR tends to constrain the size of individual houses, but the allowed house size is proportional to the lot size and reflects the character of the individual neighborhoods. The FARs, setbacks and height limits in the R3 and CRA zones are compatible with, and do not constrain, the allowed density. The FAR in the R3 zone is 1.05 and the FAR in the CRA zone is 1.35. The height limit for residential in both zones is 45 feet and the height limit for mixed residential and commercial in the CRA zone is 50 feet.

Shelters and Transitional Housing for the Homeless

Mountain View accommodates both temporary shelters and transitional housing within its zoning ordinance.

Emergency shelters are facilities with the primary purpose of providing temporary housing for homeless people. Shelters for the homeless, as well as food kitchens and other temporary emergency personal relief services, are allowed in all zone districts for up to 35 days with a

temporary use permit. The Alpha Omega Rotating Shelter operates at local churches under these provisions. The churches take turns hosting the shelter for a month at a time. Shelters are limited to a maximum of 29 people and shelters must be located in existing structures that meet building code requirements. The application process is quite simple, requiring only the submittal of clear sketches and drawings showing the proposed use and a statement of operations. If the shelter proposes to remain open for more than 35 days, letters of agreement must be obtained from adjacent properties. Longer-term shelters are also permitted in all zone districts without these letters of agreement by means of a conditional use permit.

Mountain View's (and other cities') approach to homeless needs is to provide short-term shelters and programs within the city and to participate in funding permanent shelters and other programs on a regional basis. Mountain View actively participates in these regional approaches which can provide a better range of services to the client population and more efficient use of resources than smaller facilities can provide, allowing more clients to be helped. For example, the City helps fund the Clara Mateo Shelter in Menlo Park (within 10 miles of Mountain View) which houses some clients from Mountain View. It also helps fund the Emergency Housing Consortium Shelter in San Jose.

The "Santa Clara Countywide Five year Homelessness Continuum of Care Plan, 2001-2006"¹² recommends that the capacity of the County's existing emergency shelter system be expanded "in a manner that is flexible and minimizes the need for development of new facilities and infrastructure." Thus, the emphasis is on expansion of existing facilities, rather than locations for new shelters.

Transitional housing are facilities that have the goal of facilitating the movement of homeless people to permanent housing within 24 months. Transitional housing is allowed under the category of "residential care homes." Mountain View currently has two transitional housing facilities—one for adults and one for homeless and run-away teens.¹³ The conditional use permit requirement does not seem to hinder the development of group homes or transitional housing as witnessed by the fact that no such proposed facilities have been denied. When Casa SAY applied for a conditional use permit to increase its beds from six to eight in 1996, it was approved and the City helped to fund the expansion of the facility.

The "Santa Clara Countywide Five Year Homelessness Continuum of Care Plan" recommends expanding the number of transitional housing beds. As noted earlier, residential care homes, including transitional housing, are allowed in all residential zones and in Precise Plans which allow other residential uses. Allowing residential care homes in the CRA zone, which allows other residential uses, will be considered in the next zoning ordinance update which is scheduled for 2003. Rather than governmental constraints, it appears that the biggest obstacle to group

¹² "Santa Clara Countywide Five Year Homelessness Continuum of Care Plan, 2001-2006," Santa Clara County Collaborative on Housing and Homeless Issues, Approved by the Santa Clara County Board of Supervisors, June 26, 2001.

¹³ Technically, one of these facilities, Casa SAY is a shelter, not transitional housing. Teens are allowed to stay at the facility for up to 30 days (rather than one or two years as is the case with transitional housing). However, it is not a shelter as the City defines shelters (allowed to operate for up to 35 days in one location). Therefore, it is included with transitional housing.

homes in general is the cost of housing. A large house formerly used as a group home for developmentally disabled children went on the market a year ago, but was too expensive for any non-profit agency to purchase despite the efforts by the City to find a replacement group home use. Group homes of all kinds are in competition for funds for affordable housing.

Housing for Disabled Persons

An area of particular concern under State law is whether the City imposes regulatory constraints on housing for persons with disabilities, including group homes. Does the City make "reasonable accommodation" (*i.e.*, "modifications and exceptions") for people with disabilities in its zoning, permit processing and building laws as required by federal and State fair housing laws?

A review of Mountain View's zoning laws and permits was recently conducted as a part of a comprehensive study of fair housing in Santa Clara County. This study, released in draft form in May 2002, was commissioned and funded by all CDBG jurisdictions in the county, including Mountain View, to comply with HUD's requirement for cities to conduct analyses of impediments to fair housing.¹⁴ The report concluded that the cities' codes (including those in Mountain View) were in compliance with State fair housing standards, although the authors noted they did not observe how individual permits were processed. In addition, fair housing advocates interviewed for the study generally felt that local officials behaved reasonably in processing applications for the siting of group homes, and other zoning issues.

Mountain View also conducted its own analysis of regulations and processes with the following findings:

- Mountain View conscientiously implements and monitors Title 24 of the California Code of Regulations which are the regulations on access and adaptability for persons with physical disabilities. These regulations, which implement State law, apply to new construction of multiple-family units in buildings having three or more units. When there is a conflict between a Title 24 requirement and a zoning ordinance requirement (for example, the location of a handicapped ramp and a required building setback), the City's Development Services Center identifies the conflict early in the review process and resolves it with priority given to the Title 24 requirement. The approval is administrative and there is no fee.
- Although there are no mandatory accessibility requirements for single-family houses, the City assists physically disabled low-income homeowners with minor accessibility modifications to their homes by funding a Home Access Program.
- The City's parking requirements ensure adequate handicapped parking. In addition, the City has the flexibility to reduce the overall parking requirement for a use with lower-than-normal demand, for example, in special needs housing where the occupants have fewer cars. The reduction can be approved through a conditional use permit which is less stringent than the variance process used in many other cities for review of applications for parking reductions.

¹⁴ "Fair Housing in Santa Clara County," An Assessment of Conditions and Programs, 2000-2002," Empirical Research Group, UCLA, Final Draft, May 12, 2002.

- Groups homes for disabled people are allowed as "residential care homes." As noted above, residential care homes are allowed in all residential zones and in Precise Plans which allow other residential uses. They are not allowed in commercial and industrial zones. Since other residential uses are allowed in the CRA zone with a conditional use permit, it would be appropriate to allow residential care homes under the same standards. As noted above, this change will be incorporated into the next zoning ordinance update which is scheduled for 2003. There are no geographical spacing or siting requirements for residential care facilities. A conditional use permit is required for residential care homes with seven or more residents. As with other use permits, a public hearing is required as part of the approval process. The City has approved all such permits for large group homes that have been submitted to the City.
- Mountain View recently eliminated the term "family" from the zoning ordinance so that, consistent with State law, there is no legal definition of a family that would restrict occupancy of a housing unit to people who are related.

Processing and Permit Procedures

Mountain View's planning process is simpler than in many other cities. Development projects are reviewed by the staff (with assistance from consulting architects), rather than the Planning Commission. Most approvals are granted by the Development Review Committee, some by the Zoning Administrator and the remainder, which are generally large projects, by the City Council. The specific process varies with the type of permit required. As required by the California Environmental Quality Act, most development projects also require environmental review.

All new development is subject to design review by a Development Review Committee composed of City staff and consulting architects. The zoning ordinance specifies the objectives and criteria guiding the design review process. In addition, the City has several types of design guidelines to assist developers. They include R1 guidelines, townhouse guidelines, small-lot single-family guidelines, landscaping and parking guidelines, and guidelines within Precise Plans. A binder containing examples of recently-approved, well-designed projects is available at the counter. Developers are encouraged to schedule informal reviews with the Development Review Committee very early in the process to facilitate review. The Development Review Committee makes the final decision on apartment projects in standard zone districts (and many other smaller projects). For housing projects that require special permits, design recommendations are forwarded to the Zoning Administrator who holds a public hearing, makes findings and determines conditions of approval.

The Zoning Administrator makes the final decision on conditional use permits for companion units, residential care homes, residential developments with four or fewer ownership units, and similar projects. For other types of permits, the Zoning Administrator makes a recommendation to the City Council. These include Planned Unit Development permits for townhouse and small-lot single family projects and ownership units in the Commercial/Residential Arterial zone district if there are more than four units, as well as Planned Community Permits for most development in Precise Plans. The Zoning Administrator's findings and proposed conditions of

approval are forwarded to the City Council for a public hearing and final action. The City Council also makes decisions on subdivisions associated with the various projects.

The City must comply with processing timelines established under the Permit Streamlining Act. Within that legal framework, the City has fairly fast processing times because a large part of the review is carried out by staff. A typical small residential project (less than 10 units) takes three to six months to process including informal design review and CEQA review. Larger projects vary significantly—from 6 months to a year or more depending on whether there are required legislative (General Plan and zoning) changes, the level of CEQA review, and the responsiveness of the project developer and architect. The City allows an applicant to begin the project review process in parallel with applications for General Plan or zoning amendments. This shortens the total project review time and expedites the approval.

It currently takes three weeks to review a building permit application for a single-family house.

Do project mitigations result in housing being built at less than the allowed site capacity?

Housing is being built at less than the allowed site capacity (about 75 percent) for several reasons. Some of them are inherent in the City review process which takes into consideration that the zoning ceiling is not the goal for each site, but the maximum allowable. The review process considers neighborhood compatibility, site constraints such as lot configuration and environmental factors such as the presence of major trees that must be protected. Other reasons for less than maximum densities come from the private sector, *i.e.*, developer response to market demand. On small infill sites (approximately one acre or less), developers choose to build fewer units than allowed by the zoning. These sites are often too small to be economically feasible for apartment projects, and developers do not want to build condominiums because of construction defect litigation (which is outside of the City's control). However, there is a very strong demand for small-lot single-family houses and therefore developers build and sell them even though zoning allows more units on the site.

On at least one larger site (Whisman Station), construction defect litigation also had a role in steering development toward lower density housing. The developer originally proposed rental apartments, but the City recommended at least some ownership housing because Mountain View has a very high percentage of rental units (58.5 percent). Rather than build condominiums (a higher density form of ownership housing), the developer proposed townhouses and small-lot single-family at least partially because these unit types are less vulnerable to construction defect lawsuits. (Market demand was also a major factor.) As a result, the density was scaled back (to 14.5 units per acre). However, on another site, the City approved a 211-unit apartment project, which has a density of about 100 units per acre. The Housing Element contains several Actions aimed at encouraging or requiring developers to build closer to the maximum density, especially along transit corridors and near jobs (Actions 1.f and 2.d See discussion on pages 76-77.

There is also an Action supporting construction defect legislation. Currently, developers are shying away from attached housing types (primarily condominiums), which are higher density, because of the proliferation of construction defect lawsuits in the last 10 years. Legislation to deter lawsuits while ensuring protection for homebuyers is under consideration.

Fees and Exactions

Do high fees or other exactions result in high-end, rather than lower-cost, housing being constructed?

Major fee categories are planning permit fees, building permit fees, off-site facility charges, subdivision fees, and parkland dedication fees. Staff has reviewed the fees to assess whether they are unusually high and thus result in high-end housing being constructed.

Planning Fees

A 1999 review of planning fees in other nearby cities showed that Mountain View's were generally lower. As a result, the City raised some of its fees, but they remain less than the average of the surveyed cities.

The zoning ordinance allows fees to be waived for efficiency studio projects (and such a waiver has been approved). Action 17.b proposes to initiate the process of further amending the City code to allow waivers or reduced fees for planning approvals and building permits for other kinds of affordable housing projects.

Building Fees

A 1997 survey showed that building permit fees for residential development are near the high end of the range compared to other cities in Santa Clara County. Mountain View's fees haven't been raised since then, while other cities may have raised theirs. Mountain View also does not have a surcharge for Title 24 energy compliance review or other special plan checks. According to the Building Official, there has been no indication from developers that the City's fees are out of line compared to other cities.

This table shows approximate building permit costs for a 1,500 square-foot house in 2001.

**Table VI-2
Building Permit Costs, 2001**

Type of Permit	1,500 sq. ft. unit (\$144,930 to construct @ \$96.62/sq. ft.)
Building Permit	\$1,946.29
Plan Check	1,265.09
Construction Tax	150.00
Plumbing, Mechanical, and Electrical	600.00
Total	\$3,961.38

Park Dedication Fees

Mountain View has had a parkland dedication ordinance since 1972 (revised 1997) (Chapter 42 of the City Code). The ordinance requires a developer to dedicate land, pay a fee in lieu thereof,

or a mixture of both, for park and recreational purposes. Land may be dedicated if a park site has been designated on the property in the General Plan, a Precise Plan or the Parks and Open Space Plan. A fee in lieu of land dedication is required (1) when the development occurs on land on which no park is shown or proposed; (2) where dedication is impossible, impractical, or undesirable; or (3) when the proposed development contains 50 parcels or fewer. In the past 10 years, only one project (Whisman Station) has dedicated parkland. The in-lieu fee calculation is based on (1) the number of units, (2) the type of unit, (3) a formula that will assure provision of three acres of land per 1,000 people in the City of Mountain View, and (4) the fair market value of the land that otherwise would have been required for dedication.

In the past five years, the City has collected \$6.8 million from residential development. During the 1999-2000 fiscal year, the average fee per unit was \$10,711. During 2000-01, the average fee has been \$13,450—with the increase reflecting the rise in the cost of land. The fee is high compared to cities with lower land values. For example, San Jose also uses a formula based on the prevailing fair market value of land in seven different areas of the City. Fees range from \$2,350 for a multiple-family unit in Alviso to \$9,400 for a single-family house in another part of the city.¹⁵ San Jose's fees have not been raised since 1998. Palo Alto does not have a park dedication ordinance. Sunnyvale has a park dedication ordinance similar to San Jose's, with the in-lieu fee calculation based on an annual city-wide (rather than area-wide as in San Jose) review of fair market land values.

Although Mountain View's fees are high, there is a logical nexus between the impact of new residents and the amount of the fee. New residents create an additional demand for parks and recreational facilities, since private open space within developments is generally inadequate to meet those needs. The park dedication fees have enabled the City to have high-density housing and still ensure there is adequate open space for the residents. The fees reflect what the City would have to pay to buy the parkland or expand recreational facilities to serve the new residents. The fees are likely to be higher than other cities because land costs are higher in Mountain View.

The park dedication fee may be a constraint on the development of affordable housing. For example, Ginzton Terrace, a 107-unit affordable senior housing project, paid park dedication fees of \$215,000 (ultimately funded through a CDBG grant). The park dedication ordinance specifically exempts efficiency studios. If the proposed efficiency studios project were required to pay the fee, the fees would be about \$800,000 or \$6,700 per unit, which is about four percent of the total cost of developing each unit.

Companion units are considered by the State to be affordable housing although there is no guarantee that they will rent for below-market rates. The park dedication fee sometimes deters people who are contemplating companion units. The fee for a recent companion unit was \$6,795 which is almost 10 percent of the development costs assuming a 700 square-foot companion unit costs \$70,000 to build (no land costs).

¹⁵ City of San Jose Park Planning Department, May 2, 2001.

An option that could be studied further is to exempt all low and moderate-income housing from the park dedication fee. However, while fees may create a greater burden for affordable housing, it was concluded that the residents of these housing units do create an impact on the park system and the fees are needed to finance an important community amenity. Therefore, an exemption is not proposed in the Housing Element

On/Off-Site Improvements

Mountain View, like many cities in California, is not in a financial position to use its General Fund for improvements needed to support new development, and thus must require residential developers to provide a full complement of on- and off-site improvements. Developer fees cover costs associated with connection to sewer facilities, water mains, storm drains, parkland fees and inspections. The costs shown below apply only to new subdivisions and do not apply to infill development of existing single-family lots. Off-site and subdivision fees will vary greatly depending on whether the street is improved or unimproved, what fees have been paid previously, and the value of the lots.

**Table VI-3
Off-Site and Subdivision Costs, 2000**

	Single-Family ¹⁶ (new subdivision) (per lot)	Townhouse ¹⁷ (infill) (per Unit)	Multi-Unit ¹⁸ (rental) (per Unit)
Sewer Connection	\$1,300	\$900	\$900
Water Connection	1,500	1,100	1,100
Storm Drain Connection	1,000	700	700
Map Checking Fee ¹⁹	100	100	NA
Plan Check & Inspection fee	1,600	1,100	NA
Park Land Fee	15,400	13,100	13,100
Off-site Construction Costs (Approximate)	23,000	15,000	15,000
TOTAL	\$43,900	\$32,000	\$30,800

Codes and Enforcement

The City uses the 1997 Uniform Building Code (UBC) and has no significant requirements above and beyond the UBC.

The City does have a multiple-family inspection program that inspects 3,000 to 4,000 units in 200 complexes per year to ensure that they meet housing code requirements for safety and sanitation.

¹⁶ Fees and costs are based on a 10-unit cul-de-sac development on an unimproved street. The parkland dedication fee is based on an assumed land value of \$1,900,000 per acre.

¹⁷ Fees and improvement costs are based on a 10-unit townhouse development on an unimproved street.

¹⁸ Fees and improvement costs are assumed to be the same as for a townhouse, less costs associated with subdivision, i.e., map fees etc.

¹⁹ Does not include map-filing fee.

Other Governmental Constraints

Mountain View adopted a Below-Market-Rate ordinance in 1999. The ordinance requires that new residential development provide 10 percent of its units at prices affordable to low (for rental) and moderate (for ownership) households. Developers may pay fees in lieu of the units for fractions of units and for ownership units. BMR programs are sometimes perceived as adding to the cost of housing by requiring the market-rate units to subsidize the affordable units. However, according to the consultant advising the City on the BMR program, as well as the consensus of a focus group of local developers at the time the ordinance was being developed, the cost of the BMR program is generally passed on to the property owner selling his land for housing—rather than to the price or rental rate of the housing units. In other words, the price that property owner is offered for his land is lower because of the developer's additional costs for the BMR program.

This issue was raised again as part of the City's consideration of a housing impact fee for commercial and industrial development and the response from industrial developers was the same. Costs are borne by the property owner. The conclusion was also contained in the Nexus Analysis. Furthermore, land prices have risen so quickly that the "subsidy" cost is minor compared to the overall price that the sale of land can command.